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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,521	03/22/2004	Alvin Kaplan	07670/100M667-US1	3379
7278	7590	09/17/2004	EXAMINER	
DARBY & DARBY P.C. P. O. BOX 5257 NEW YORK, NY 10150-5257			MARSH, STEVEN M	
			ART UNIT	PAPER NUMBER

3632

DATE MAILED: 09/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/807,521

Applicant(s)

KAPLAN, ALVIN

Examiner

Steven M Marsh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☒ Claim(s) 3 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This is the first office action for U.S. Application 10/807,521 for a Hanger filed by Alvin Kaplan on March 22, 2004.

#### ***Claim Objections***

Claim 3 is objected to because of the following informalities: The word "sold" should be deleted and replaced with - - solid - -. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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Claims 1, 2, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,673,835 to Kalat. Kalat discloses a hanger with a hanging element (54) disposed at the top end of a shaft (40 and 44) having a top and a bottom end. There is a ring-shaped support element (22 and 24) disposed on the bottom end of the shaft and extending outwardly therefrom to provide a support base. An article can be rolled around the shaft and the base can support an article in a vertical position. Claim 9 contains limitations to the article. However, because the article is not claimed, the limitations are not considered limiting to the hanger.

Claims 1, 3, and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent D472,414S to Gilbert. Gilbert discloses a hanger with a hanging element (at the top of the stand in fig. 1) disposed at the top end of a shaft (between the disk at the bottom and the top of the stand) having a top and a bottom end. There is a solid disk (at the bottom of the stand) that is disposed at the bottom of the shaft and extends outwardly therefrom to provide a support base. An article may be rolled around the shaft to form a cylinder and the base can support an article in a vertical position. Claim 9 contains limitations to the article. However, because the article is not claimed, the limitations are not considered limiting to the hanger.

Claims 1, 4-6, 8, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 1,464,160 to Weyel. Weyel discloses a hanger with hanging element (10) disposed at the top end of a shaft (6) having a top and a bottom end. There is a support element (4) that is disposed at the bottom of the shaft and extends outwardly therefrom to provide a support base. The support element is pivotally connected to the

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shaft and the support element pivots between a first position, approximately parallel to the shaft, and a second position approximately perpendicular to the shaft. The support element also has a notch (at the end of 4) dimensioned to receive the shaft and there is a header element (2) that is rectangular in cross-section. An article may be rolled around the shaft to form a cylinder and the base can support an article in a vertical position. Claims 6 and 9 contain limitations to the article. However, because the article is not claimed, the limitations are not considered limiting to the hanger.

Claims 1, 6, 8, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,262,439 to Dinan et al. Dinan et al. discloses a hanging element (52) at the top of a shaft (20) having a top end and a bottom end, with a support element (12) disposed on the bottom end of the shaft and extending outwardly therefrom. An article can be rolled around the shaft and there is a header element (50) with a rectangular cross section disposed on the shaft. Claims 1 and 6 contain limitations to the article. However, because the article is not claimed, the limitations are not considered limiting to the hanger.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dinan et al. Dinan et al. does not disclose a header element with a trapezoidal cross section. However, Dinan does disclose that the header can in different configurations (col. 2, lines 64-68) and forming the header in a trapezoidal configuration is a matter of design preference that would have been obvious to one of ordinary skill in the art at the time of the present invention.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 5,413,301 to Cadman

The above patent discloses a display apparatus for product identification.

U.S. Patent 4,073,462 to Whitaker

U.S. Patent 603,940 to Carkin

U.S. Patent Des. 186,517 to Walsh

U.S. Patent Des. 459,929S to Snell

U.S. Patent Des. 480,229S to Humphrey

U.S. Patent Des. 267,445 to Watson

U.S. Patent 5,727,699 to Gilcrease

U.S. Patent Des. 284,716 to Honermann

The above patents disclose article support assemblies with shafts and hangers.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Marsh whose telephone number is (703) 305-0098. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.



Steven M. Marsh

August 31, 2004



LESLIE A. BRAUN  
SUPERVISORY PATENT EXAMINER